IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Steve Grove et al.	Examiner: Siegfried E. Chencinski
Serial No.:	10/023,583	Group Art Unit: 3691
Filed:	December 14, 2001	Docket No.: 2043.052US1
Title:	METHOD AND SYSTEM AUTOMATICALLY TO SUPPORT MULTIPLE TRANSACTION TYPES, AND TO DISPLAY SELLER-SPECIFIC TRANSACTIONS OF VARIOUS TRANSACTION TYPES IN AN INTEGRATED, COMMINGLED LISTING	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
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Alexandria, VA 22313-1450

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are submitted with this request.

This request is being filed with a Notice of Appeal. The review is requested for the following reasons:

§103 Rejection of the Claims

Claims 1-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Esposito et al. (U.S. 6,587,838, hereinafter "Esposito"). Applicants respectfully traverse the rejection of claims 1-35.

Applicants submit that the Final Office Action mailed on November 27, 2007 failed to make a *prima facie* showing of obviousness. In particular, Esposito, the sole patent relied upon, fails to disclose or suggest all the claim elements of each rejected claim.

As noted in Applicants' response,[1] independent claim 1 includes:

> "responsive to the request, retrieving information concerning a plurality of offerings, wherein the plurality of offerings include a first offering of a first transaction type and a second offering of a second transaction type;
> integrating information concerning the first and second offerings into a commingled list; and
> causing the display of the commingled list to the buyer."

Rather than disclosing what Applicants claim, Esposito actually teaches away from, "integrating information concerning the first and second offerings into a commingled list, and causing the display of the commingled list to the buyer," as required by independent claim 1.

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[1] See Applicants' response (herein after the "Response") at page 10 to the Final Office Action, the Response having been mailed by Applicants' representatives on January 29, 2008 in the present application.

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According to Esposito:[2]

> "In a step 410, a user at one of the plurality of client
> computers is presented with a plurality of product options and
> services from which to make a selection. . . . In a step 416, a
> **purchase request is transmitted to the vendor computer** over
> the public packet switched communications network. . . . . In a
> step 426, **vendor notification message 50 is transmitted to each
> of the selected vendors** via the wireless network 108, based upon
> the wireless region and account information." (Emphasis added).

Thus, the description of the Esposito system is concerned with transmitting *to vendor*

computers the product selections of a user. This fails to disclose or suggest, and actually teaches

away from, the above quoted subject matter from independent claim 1 which includes an offering

of a first transaction type, an offering of a second transaction type, and wherein the commingled

list including the first and second offerings is displayed *to the buyer*. The purpose of the vendor

notification of Esposito, according to the description in Esposito, is to see "if any of the one or

more vendors can complete a purchase and sale transaction with the user, the vendor can contact

the user directly."[3] The Esposito description thus teaches away from the subject matter of

independent claim 1, wherein independent claim 1 includes, "integrating information concerning

the first and second offerings into a commingled list; and causing the **display of the**

commingled list to the buyer." (Emphasis added).

In an attempt to support the use of Esposito in the rejection of the claims, including

independent claim 1, the Final Office Action refers to Esposito as teaching:[4]

> "A plurality of client computers are part of the system. The client
> computers enable users to interact with the system to learn about
> and express interest in products and services, (Abstract, II. 10-16)
> Further, Esposito teaches "Each of the client computers is able to
> present to a user a plurality of product options and services from
> which the user can make a selection. Responsive to the users' input
> indicting a particular product from a menu, the client computer
> provides product information such as pictures, retrieved from the
> product database by the vendor computer over the public packet
> switch network"(Col. 2, II. 13-16)."

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[2] *See* Esposito at column 4, line 55 through column 5, line 15.
[3] *See* Esposito at column 3, lines 44-46.
[4] *See* the Final Office Action at page 8, lines 1-11.

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While Applicants do not necessarily agree with these statements, even if true, the statements still fail to disclose or suggest the subject matter as quoted above from independent claim 1. As noted above, independent claim 1 includes, "retrieving information concerning a plurality of offerings, wherein the plurality of offerings *include a first offering of a first transaction type and a second offering of a second transaction type.*" (Emphasis added).

Further, since there is no disclosure or suggestion of the first offering of a first transaction type and of a second offering of a second transaction type in Esposito, there cannot be a disclosure or suggestion in Esposito of, "integrating information concerning the first and second offerings into a commingled list; and causing the display of the commingled list to the buyer," all as required by independent claim 1.

As noted in the Response,[5] in contrast to the offering of the first transaction type, the offering of the second transaction type, and the commingled list as required by independent claim 1, Esposito concerns "providing *real-time notification to vendors* of purchaser requirements in a heterogeneous network environment."[6] In Esposito, "[U]sers interact with plurality of client computers 102 in order to view information about products stored in product database 120."[7] (Emphasis added). However, there is no disclosure or suggestion in Esposito, and the Final Office Action fails to provide a consistent rational, or any other evidence of record, that discloses or suggests, "retrieving information concerning a plurality of offerings, wherein the plurality of offerings include a first offering of a first transaction type and a second offering of a second transaction type," as required by independent claim 1.

For at least the reasons stated above, the rejection fails to show that Esposito discloses or suggests all of the subject matter included in independent claim 1. Thus, independent claim 1 has not been shown to be obvious in view of Esposito. For analogous reasons, the rejection fails to show that Esposito discloses or suggests all of the subject matter included in independent claims 18 and 35. Therefore, independent claims 18 and 35 are not shown to be obvious in view of Esposito.

Claims 2-17 and 19-34 depend from one of independent claims 1 and 18, and so include

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[5] *See* the Response at page 11, first paragraph.
[6] *See* Esposito at column 1, line 32-34.
[7] *See* Esposito at column 3, lines 28-30.

all of the subject matter included in the independent claim from which they depend, and more.

For at least the reasons stated above with respect to independent claims 1 and 18, the rejection

fails to show that Esposito discloses or suggests all of the subject matter included in claims 2-17

and 19-34, and so claims 2-17 and 19-34 are not shown to be obvious in view of Esposito.

CONCLUSION

Applicants respectfully request review of the final rejection in the above-identified application because the Final Office Action, and now the Advisory Action, have failed to meet the required burden for establishing a *prima facie* case in the rejection of claims 1-35. Reconsideration and withdrawal of the rejection, and allowance of claims 1-35 is respectfully requested.

The Examiner is invited to telephone Applicants' attorney at 612-371-2132 to facilitate prosecution of this application. Applicants further note that a Petition to Make Special in this application has been granted. Applicants respectfully request that all further prosecution of this application be given all the privileges, rights, and attention warranted by an application having been made special based on a granted Petition to Make Special.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

By his Representatives,

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